

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

UNITED STATES OF AMERICA)	CR No.: 3:07-155-JFA
)	
v.)	ORDER
)	
JARVIS MCKENZIE)	
)	

The defendant has filed a motion to remove Assistant United States Attorney Stacey Haynes from this case and to assign a civil case number to this action, which is brought pursuant to 28 U.S.C. § 2255.

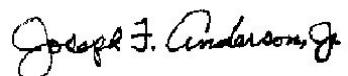
The effort to disqualify Ms. Haynes is grounded solely upon the fact that she is the Assistant United States Attorney who prosecuted the defendant's criminal case. It has been the longstanding practice of this District, and other districts of which this court is aware, to allow the attorney who handled the criminal aspect of the case, to respond to the § 2255 motion. Indeed, requiring an entirely new attorney to become familiar with the procedural history and law of the case would involve unnecessary duplication of effort and expense to the government. The only authority cited for the proposition that the Assistant United States Attorney should be removed is the fact that Ms. Haynes is primarily a criminal prosecutor. Ms. Haynes is properly licensed in this court to handle criminal and civil matters. The motion to remove Ms. Haynes (ECF No. 1619) is, therefore, denied.

Defendant also asks that this case be assigned a civil case number. Several years ago, a practice was established whereby the old criminal case number remains in effect even

though the case is a civil action. The defendant may be assured that his § 2255 motion is a civil action and will be treated as such. The nomenclature contained in the number assigned to the case is of no significance whatsoever. For this reason, the motion to alter the case number is also denied.

IT IS SO ORDERED.

January 3, 2012
Columbia, South Carolina



Joseph F. Anderson, Jr.
United States District Judge